IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 16TH JULY 2007 / 25TH ASHADHA 1929

WP(C).No. 21334 of 2007(M)

PETITIONER:

AAS DISTRIBUTORS, THANAPARAMPIL TOWERS,
NETTOOR P.O., MARADU, ERNAKULAM DISTRICT,
REPRESENTED BY PARTNER T.M.HABEEB.

BY ADV. SRI.VIJAYAN. K.U.
SRI.K.N.SREEKUMARAN

RESPONDENTS:

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1. COMMERCIAL TAX OFFICER, SECOND CIRCLE,
TRIPUNITHURA.

2. DEPUTY COMMISSIONER (APPEALS),
ERNAKULAM.

3. DEPUTY TAHSILDAR (RR),
KANAYANNUR TALUK, KOCHI-11.

4. STATE OF KERALA REPRESENTED BY
SECRETARY TO GOVERNMENT, TAXES DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

BY G.P. SRI. C.K. GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 21334 OF 2007

Dated this the 16th day of July, 2007

JUDGMENT

It is seen that an exparte assessment is issued by the Assessing Officer to a dealer who has not even renewed registration for the relevant year 1999-2000. The Assessing Officer has stated that petitioner has not filed any monthly returns for the whole year. It is strange that the assessing officer has not noticed the omission and did snot take any action prior to completion of assessment. In fact since petitioner admittedly has not renewed registration, there was no need for the petitioner to file even returns. The conduct of the Officer is thoroughly irresponsible because if a dealer does not renew registration, enquiry should be conducted and if required registration itself should be cancelled after determining liability and recovering tax due till closure of business. In the circumstances, Ext.P3 order is vacated directing the Assessing Officer to conduct enquiry and to make assessment only if the petitioner is found to have carried on business during the year 1999-2000. Data collected will be informed to the

petitioner along with notice if any issued proposing assessment. Petitioner is directed to produce books of accounts and other details before the Officer for completion of assessment until date of closure and for cancellation of registration. Since the impugned assessment order itself is vacated, recovery proceedings initiated also is vacated and there will be direction to the appellate authority to dismiss the appeal as infructuous.

W.P. is disposed of as above.

(C.N.RAMACHANDRAN NAIR)
Judge